



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2012-0954; FRL-9796-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Motor Vehicle Emissions Budgets for the Pennsylvania Counties in the Philadelphia-Wilmington, PA-NJ-DE 1997 Fine Particulate Matter Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revision consists of an update to the SIP-approved Motor Vehicle Emissions Budgets (MVEBs) for the Pennsylvania counties in the Philadelphia-Wilmington, PA-NJ-DE 1997 fine particulate matter (PM_{2.5}) nonattainment area (hereafter referred to as the Philadelphia Area) to reflect the use of the most recent version of the Motor Vehicle Emission Simulator model (MOVES). The Pennsylvania counties impacted by this revision are: Philadelphia, Montgomery, Delaware, Chester, and Bucks Counties. EPA is approving this revision to the MVEBs and thereby making them available for transportation conformity purposes in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [insert Federal Register publication date].

ADDRESSES: EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2012-0954**. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and

will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814-2071, or by e-mail at khadr.asrah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 15, 2013 (78 FR 11122), EPA published a notice of proposed rulemaking (NPR) for Pennsylvania. The NPR proposed approval of the MVEBs for the Philadelphia Area. On November 6, 2012, the Pennsylvania Department of Environmental Protection (DEP) submitted to EPA a draft SIP revision which updates the Philadelphia Area's MVEBs to reflect the use of the MOVES model. On January 29, 2013, Pennsylvania DEP submitted its formal, final SIP revision to update the Philadelphia Area's MVEBs to reflect the use of the MOVES model.

II. Summary of SIP Revision

The MVEBs are for PM_{2.5} and nitrogen oxides (NO_x). The previously developed MVEBs for PM_{2.5} and NO_x for the Philadelphia Area were approved as part of EPA's approval of Pennsylvania's 1997 PM_{2.5} attainment plan on August 28, 2012 (77 FR 51930). The MVEBs were previously developed using Highway Mobile Source Emission Factor Model (MOBILE6.2)

for the year 2009. The Philadelphia Area attainment demonstration documented that NO_x is the only significant precursor from on-road sources to the formation of PM_{2.5} in the Philadelphia Area. A summary of the updated MOVES-based MVEBs and previously approved MOBILE6.2-based MVEBs for 2009 is provided in Table 1: Summary of MVEBs; the emissions for each pollutant are provided in tons per year (tpy). Also presented in Table 1 is a comparison between the 2002 base year inventory, which was produced by MOBILE6.2 and updated with MOVES, and the 2009 MVEBs. Even though there is an emissions increase in the MOVES-based MVEBs, the increase is not due to an increase in emissions from mobile sources. The increase is due to the fact that the MOVES model provides more accurate emissions estimates than MOBILE6.2 rather than growth that had not been anticipated in the attainment demonstration or changes to any control measures. Even though the MVEBs as calculated using MOVES result in a higher estimate of emissions, the MVEBs are consistent with requirements for attainment in the Philadelphia Area. This is because EPA determined on May 16, 2012 (77 FR 28782) that the Philadelphia Area attained the 1997 PM_{2.5} National Ambient Air Quality Standard (NAAQS) by the applicable attainment date, and because the area continues to meet the 1997 PM_{2.5} NAAQS. Therefore, this update to the SIP-approved MVEBs to reflect the use of the MOVES model does not interfere with the Philadelphia Area's ability to continue to meet the 1997 PM_{2.5} NAAQS. Additional rationale for EPA's action is explained in the NPR and will not be restated here. No public comments were received on the NPR.

Table 1: Summary of MVEBs				
Model	MOBILE6.2		MOVES2010a	
Year	2002	2009	2002	2009
PM _{2.5} (tpy)	1032.8	699.1	2,904.60	1,907.5
NO _x (tpy)	63,475.9	36,317.7	90,879.00	57,218.3

III. Final Action

EPA is approving Pennsylvania DEP's SIP revision request from January 29, 2013 to update the SIP-approved MVEBs for the Philadelphia Area to reflect the use of the MOVES model. EPA is approving this SIP revision because it will allow the Philadelphia Area to continue to meet the 1997 PM_{2.5} NAAQS, and our in depth review of the SIP revision leads EPA to conclude that the updated MVEBs meet the adequacy requirements set forth in 40 CFR 93.118(e)(4)(i)-(vi), and the updated MVEBs have been correctly calculated to reflect the use of the MOVES model.

IV. Effective Date

EPA finds that there is good cause for this approval to become effective on the date of publication because this action will expedite the planning process for transportation conformity determinations. The updated MVEBs will be utilized for transportation conformity determinations, therefore making this revision effective on the date of publication will allow for expedited planning and preparation for transportation conformity determinations by the Delaware Valley Regional Planning Commission (DVRPC). This expedited planning will ensure that transportation conformity determinations will not be delayed. The expedited effective date for this action is authorized under section 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." Ensuring that the updated MVEBs are available as soon as possible for use in making transportation conformity determinations is sufficient reason to allow an expedited effective date of this rule under 5 U.S.C. 553(d)(3).

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action which updates Pennsylvania's SIP-approved MVEBs in the Philadelphia Area to reflect the use of the MOVES model may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter.

Dated: March 25, 2013

W. C. Early,
Acting Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart NN - Pennsylvania

2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the entry for the “1997 PM_{2.5} NAAQS Attainment Plan Demonstration, 2002 Base Year Emissions Inventory, Contingency Measures and Motor Vehicle Emission Budgets for 2009”.

The revised text reads as follows:

§ 52.2020 Identification of plan.

* * * * *

(e)***

(1)***

Name of non-regulatory SIP revision	Applicable geographic Area	State submittal date	EPA approval date	Additional explanation
* * * * *				
1997 PM _{2.5} NAAQS Attainment Demonstration, 2002 Base Year Emissions Inventory, Contingency Measures and Motor Vehicle Emission Budgets for 2009	Pennsylvania portion of the Philadelphia-Wilmington, PA-NJ-DE PM _{2.5} Nonattainment Area	4/12/10, 8/3/12	8/27/12 77 FR 51930	Revised 2009 Motor Vehicle Emission Budgets. The SIP effective date is [insert Federal Register publication date].
		1/29/13	[Insert Federal Register publication date] [Insert page number where the document begins]	
* * * * *				

3. Section 52.2053 is added to read as follows:

§ 52.2053 The Motor Vehicle Emissions Budgets for the Pennsylvania Counties in the Philadelphia-Wilmington, PA-NJ-DE 1997 Fine Particulate Matter Nonattainment Area

As of [insert Federal Register publication date], EPA approves the following revised 2009 Motor Vehicle Emissions Budgets (MVEBs) for fine particulate matter (PM_{2.5}) and nitrogen oxides (NO_x) for the Pennsylvania Counties in the Philadelphia-Wilmington, PA-NJ-DE 1997 PM_{2.5} Nonattainment Area submitted by the Secretary of the Pennsylvania Department of Environmental Protection:

Applicable Geographic Area	Year	Tons Per Year NO_x	Tons Per Year PM_{2.5}
Pennsylvania Counties in the Philadelphia-Wilmington, PA-NJ-DE 1997 Fine Particulate Matter Nonattainment Area	2009	57,218.3	1,907.5

[FR Doc. 2013-07539 Filed 04/02/2013 at 8:45 am; Publication Date: 04/03/2013]